



The Internet & Television Association

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March 16, 2017

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, MB Docket No. 15-137; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268; Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, MB Docket No. 03-185

Dear Ms. Dortch:

On March 14, 2017, Diane Burstein, Michael Schooler, and I, on behalf of NCTA – The Internet & Television Association (“NCTA”), met with Alison Nemeth, Acting Media Advisor to Chairman Pai, and Michele Carey, Acting Chief of the Media Bureau, regarding the above-referenced proceedings. On the same day, we met with David Grossman, Chief of Staff and Media Advisor to Commissioner Clyburn, and I separately met with Matthew Berry, Chief of Staff to Chairman Pai.

At these meetings, we explained that the draft Order contains various assertions with which NCTA respectfully disagrees.¹ The item appears to understate the number of Class A and low-power stations with carriage rights, as well as the potential carriage burdens presented by post-auction channel sharing.² We also noted that neither the must-carry provisions of the Communications Act nor the Spectrum Act authorize the imposition of any expanded carriage of low-power stations that share channels post-auction.

¹ See Comments of NCTA, GN Docket No. 12-268, MB Docket No. 15-137, at 3-10 (filed Aug. 13, 2015).

² See Draft Order, ¶ 12 n.48.

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Wholly apart from these problems with the proposed rules, we pointed out that the proposed Order's language in footnotes 54 and 71 is flawed and mischaracterizes what the Supreme Court decided in the *Turner* cases, particularly with respect to whether changed circumstances may affect both the standard of First Amendment scrutiny to be applied to must-carry requirements and the extent to which such requirements continue to serve an important government interest.³

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen

cc: Alison Nemeth
Michele Carey
David Grossman
Matthew Berry

³ See NCTA Ex Parte Letter from Matthew A. Brill, MB Docket No. 03-185, March 13, 2017.